

REMARKS/ARGUMENTS

In the Drawings

The Draftsperson has objected to the drawings due to the "character of the lines, numbers and letters. Therefore, the hand written lines, numbers and letters have now been replaced in all of the drawings 1-13C. No other changes have been made to the drawings

In the Claims

Claims 14-26 remain in this application. Claim 21-23 have been withdrawn as the result of an earlier restriction requirement. Claims 14-20 and 24-26 have been rejected. Claims 19 and 20 have been canceled. Claims 14, 17, 18, 22, 25 and 26 are now amended. New claim 27 has been added.

§ 112 Rejections

The Examiner has rejected Claim 16 under U.S.C. § 112, second paragraph, as being indefinite due to insufficient antecedent basis for the phrases "said length" and "said breadth." Claim 14 has now been amended to read "...a base having a length, and breadth...," this corrects the antecedent issue in claim 16.

The Examiner has also rejected Claim 17 under U.S.C. § 112, second paragraph, as being indefinite due to insufficient antecedent basis for the phrases "said first pair of sides" and "said second pair of sides." Claim 17 has now been amended so as to read "said four sides," this corrects the antecedent issue in claim 17.

The Examiner has also rejected Claims 25 and 26 under U.S.C. § 112, second paragraph, as being indefinite due to insufficient antecedent basis for the phrases "said

first and second pairs of sides.” Claims 25 and 26 has now been amended so as to read “said four sides,” this corrects the antecedent issue in claims 25 and 26.

Applicant has also taken this opportunity to correct a similar antecedent issue in withdrawn claim 23. Claim 22 has now been amended to include the phrase “...wherein said four sides are implemented as a first pair of sides deployable parallel to said length and a second pair of sides deployable parallel to said breadth...” thereby providing antecedent basis for claim 23.

§ 102 Rejections

The Examiner has rejected claims 14-20 and 24-26 under 35 U.S.C. 102(b) as being anticipated by Overholt et al. (US 6,398,054). The Examiner’s rejections are respectfully traversed.

Overholt et al. teaches in column 6, lines 26-29,

“...While container 10 is suited for many uses, container 10 is particularly suitable for storing and transporting produce such as fruits and vegetables, where circulation of air and/or refrigerated gas is necessary to keep the produce fresh and consumable while it reaches the market. This circulation is fostered through the plurality of apertures 11 and other openings provided in base 12 and walls 28, 30, 32, 34 over the entire container 10...” (emphasis added)

The applicant respectfully points out that none of the apertures of Overholt et al. is suitable for receiving the tines of a forklift. That is, the apertures of Overholt et al. and neither long enough nor open in such a fashion so as to receive the tines of a forklift, nor is there hint or suggestion that modification of any of the apertures so as to form channels suitable for receiving the tines of a forklift would be of any benefit to the Overholt et al. crate. The Applicant would like to point out that the area of the Overholt et al. crate located between the two flanges 24 and 26 that the Examiner

refers to as a recess is certainly not located between channels suitable for receiving the tines of a forklift.

This is in contrast to the teachings of the present invention, which clearly teaches on page 11, lines 18-22,

“...Crate 10 is preferably configured for handling by standard pallet handling equipment. To this end, base 12 preferably has a pair of elongated channels 26 extending parallel to length L for receiving tines of a forklift mechanism (forklift, pallet carrier etc.). Channels 26 typically extend along the entirety of length L, allowing insertion of tines from either end of the crate...”
(emphasis added)

The present invention also teaches on page 11, line 23, - page 12, line 1,

“...Most preferably, at least a major portion of recess 20 is located between channels 26...” (emphasis added)

Therefore, while continuing to traverse the Examiner's rejections, the Applicant chooses to amend claim 14 so as to further distinguish the features of the present invention over those of the prior art. Specifically, Claim 14 has been amended to include language that clearly claims providing a knock-down crate having a base with a length, and breadth, and an upper surface, the upper surface having an elongated recess and pair of elongated channels extending parallel to the length such that a major part of the recess lies between the elongated channels, each of the channels having at least one open end for receiving tines of a forklift mechanism. Support for the amendment may be found on page 11, lines 18-22, - page 12, line 1, and in Figures 1A, 2, 3, 6-8A, and 9-12.

Also, in order to avoid erroneously narrow reading of claim 14, new claim 27 has been added. Claim 27 is substantially identical to claim 14, however the phrase “elongated channels” has been replaced by the phrase “forklift tine engagement regions.” Support for this new claim may be found on page 12, lines 1-10,

“...Thus, considered from a different point of view, crate 10 may be considered to have a thin base 12 in the region of recess 20, with locally raised regions to provide the volume required for channels 26. It will thus be understood that the usable volume of the inside of the crate is fully maximized by making all volume other than that required for channels 26 available for loading with produce. Furthermore, since the sides are stored between the regions of base 12 containing channels 26, nothing overlies the regions of the base 12 containing channels 26 in the collapsed state, making the height of the crate in its collapsed state significantly less than that of “fold-down” crates of similar dimensions...” (emphasis added)

The Applicant believes that the amendments to the claims and the above comments completely overcome the Examiner’s rejections of claim 14 on § 102 grounds, and therefore the rejections of claims 15-20 and 24-26, which depend therefrom, are now rendered moot.

In view of the above amendments and remarks it is respectfully submitted that amended independent claims 14 and 27 are in condition for allowance, and are generic to all species of the present invention. Therefore, the applicant asserts that all dependent claims 2-18 and 21-26, are in condition for allowance, including withdrawn claims 21-23.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
DR. MARK FRIEDMAN, LTD
By _____
Mark M. Friedman
Attorney for Applicant
Registration No. 33,883